

### Amendments To the Claims

Claim 1 (Currently Amended): A purified and isolated nucleotide sequence which encodes upon expression a regulatory protein characterized by the following:

- (a) is approximately 45 kD;
- (b) is expressed ~~primarily~~ under heat shock conditions;
- (c) is localized in chloroplasts;
- (d) ~~has high homology to chloroplast elongation factor EF-Tu, from E. coli tobacco;~~

said nucleotide sequence being capable of hybridizing ~~under conditions of high stringency~~ to SEQ ID NO:6 under conditions equivalent to hybridizing for 12 hours at 42°C in a buffer containing 50% formamide, 5 X SSPE, 2% SDS, 10 X Denhardt's solution, and 100 µg/ml salmon sperm DNA, and washing with 0.1 X SSC, 0.1% SDS at 55°C (putative coding sequence).

Claim 2 (Cancelled)

Claim 3 (Currently Amended): An expression construct comprising:

a nucleotide sequence according to claim 1, operatively linked to a regulatory region that directs ~~capable of directing~~ expression of a protein in a plant cell.

Claim 4 (Original): A vector capable of transforming or transfecting a host cell, said vector comprising an expression construct according to claim 3.

Claim 5 (Original): The vector of claim 4 wherein said vector is a plasmid based vector.

Claim 6 (Original): The vector of claim 4 wherein said vector is a viral based vector.

Claim 7 (Original): A prokaryotic or eukaryotic host cell transformed or transfected with a vector according to claim 4.

Claim 8 (Original): The host cell of claim 7 wherein said cell is a plant cell.

Claim 9 (Withdrawn): A regulatory protein which exhibits the following characteristics:

- (a) is approximately 45 kD;
- (b) is expressed primarily under heat shock conditions;
- (c) is localized in plant chloroplasts;
- (d) has high homology (80% or greater) to chloroplast elongation factor EF-Tu, from *E coli* or tobacco and comprises at least 80% amino acid sequence homology to SEQ ID NOS:1, 2, 3 or 4.

Claim 10 (Withdrawn): The protein of claim 9 wherein said protein comprises SEQ ID NO:1.

Claim 11 (Withdrawn): The protein of claim 9 wherein said protein comprises SEQ ID NO:2.

Claim 12 (Withdrawn): The protein of claim 9 wherein said protein comprises SEQ ID NO:3.

Claim 13 (Withdrawn): The protein of claim 9 wherein said protein comprises SEQ ID NO:4.

Claim 14 (Currently Amended): A method for increasing plant tolerance to heat and drought comprising:

transforming introducing to a plant cell with a genetic construct comprising:

a nucleotide sequence which encodes a regulatory protein characterized by the following:

- (a) is approximately 45 kD;
- (b) is expressed ~~primarily~~ under heat shock conditions;
- (c) is localized in chloroplasts;
- (d) ~~has high homology to chloroplast elongation factor EF-Tu, from E. coli or tobacco;~~

said nucleotide sequence being operably linked to promoter and regulatory regions capable of inducing expression in a transgenic plant or plant tissue; and regenerating a transgenic plant from said transformed cells.

Claim 15 (Original): The method of claim 14 wherein said expression construct elements cause expression during stress.

Claim 16 (Original): The method of claim 14 wherein said promoter is selected from the group consisting of: a constitutive, an inducible, and an organ specific promoter.

Claim 17 (Cancelled)

Claim 18 (Original): The method of claim 14 wherein said expression construct further comprises a selectable marker gene.

Claim 19 (Withdrawn): A method of identifying heat shock EF-Tu genes in plant species comprising:  
  
screening the genome of said plant species for a sequence that is homologous to SEQ ID NO:5 or a region of at least 100 bases thereof.

Claim 20 (Cancelled)

Claim 21 (Currently Amended): A transgenic plant containing a DNA construct comprising a polynucleotide encoding EF-Tu operably linked to a promoter, wherein said polynucleotide ~~DNA construct~~ is expressed so that the plant exhibits tolerance to one or more conditions selected from the group consisting of excess heat and drought, wherein said resistance is not present in a corresponding plant not containing the DNA construct.

Claim 22 (Cancelled)

Claim 23 (Currently Amended): A seed produced by the transgenic plant of claim 21 wherein said seed ~~which~~ comprises said ~~the~~ DNA construct.

Claim 24 (Original): A progeny transgenic plant derived from the transgenic plant of claim 21 wherein said progeny plant expresses said DNA construct so that the progeny plant exhibits said tolerance.

Claim 25 (Original): A transgenic plant according to claim 21 wherein the plant is a maize plant.

Claim 26 (Original): A seed derived from the progeny plant of claim 24 wherein said seed comprises the DNA construct.

Claim 27 (Currently Amended): A transgenic plant according to claim 21 wherein the plant is obtained ~~obtainable~~ by a process comprising the steps of:

bombarding intact regenerable plant cells with microprojectiles coated with the DNA construct;

identifying or selecting a population of transformed cells; and

regenerating a transgenic plant therefrom.

Claim 28 (Original): A method of increasing the tolerance of a plant to heat or drought, comprising:

introducing into cells of a plant an expression cassette comprising a preselected DNA segment encoding EF-Tu, to yield transformed plant cells; and  
regenerating a plant from said transformed cells, wherein the EF-Tu is expressed in the cells of the plant so as to render the transformed plant substantially tolerant to drought or excess heat that inhibits the cell metabolism, growth, or development of an untransformed plant.

Claim 29 (Currently Amended): A method according to claim 28 further including the step of:

obtaining progeny from said ~~the~~ transformed plant wherein said progeny which  
comprises said DNA construct.